



House of Representatives

General Assembly

File No. 153

February Session, 2000

House Bill No. 5536

House of Representatives, March 21, 2000

The Committee on Judiciary reported through REP. LAWLOR of the 99th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

An Act Concerning Illegal Subcontracting.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 31-69a of the general statutes is repealed and the
2 following is substituted in lieu thereof:

3 In addition to the penalties provided in part III of chapter 557, [and]
4 this chapter and chapter 568, any employer, officer, agent or other
5 person who violates any provision of part III of chapter 557, [or] this
6 chapter [, or both] or subsection (g) of section 31-288, shall be liable to
7 the Labor Department for a civil penalty of three hundred dollars for
8 each violation of said chapters and for each violation of subsection (g)
9 of section 31-288. The Attorney General, upon complaint of the Labor
10 Commissioner, shall institute a civil action to recover such civil
11 penalty. Any amount recovered shall be deposited in the General Fund
12 and credited to a separate nonlapsing appropriation to the Labor
13 Department, for other current expenses, and may be used by the Labor
14 Department to enforce the provisions of part III of chapter 557, [and]

15 this chapter and subsection (g) of section 31-288.

16 Sec. 2. Section 31-76a of the general statutes is repealed and the
17 following is substituted in lieu thereof:

18 (a) On receipt of a complaint for nonpayment of wages or a
19 violation of the provisions of subsection (g) of section 31-288, the Labor
20 Commissioner, the director of minimum wage and wage enforcement
21 agents of the Labor Department shall have power to enter, during
22 usual business hours, the place of business or employment of any
23 employer to determine compliance with the wage payment laws or
24 subsection (g) of section 31-288, and for such purpose may examine
25 payroll and other records and interview employees, call hearings,
26 administer oaths, take testimony under oath and take depositions in
27 the manner provided by sections 52-148a to 52-148e, inclusive.

28 (b) The commissioner or the director, for such purpose, may issue
29 subpoenas for the attendance of witnesses and the production of books
30 and records. Any employer [, his officer or agent, or the] or any officer
31 or agent of any employer, corporation, firm or partnership who
32 wilfully fails to furnish time and wage records as required by law to
33 the commissioner, the director of minimum wage or any wage
34 enforcement agent upon request, or who refuses to admit the
35 commissioner, the director or such agent to [his] the place of
36 employment of such employer, corporation, firm or partnership, or
37 who hinders or delays the commissioner, the director or such agent in
38 the performance of [his] the commissioner's, the director's or such
39 agent's duties in the enforcement of this section shall be fined not less
40 than twenty-five dollars nor more than one hundred dollars. [, and
41 each] Each day of such failure to furnish the time and wage records to
42 the commissioner, the director or such agent shall constitute a separate
43 offense, and each day of refusal to admit, of hindering or of delaying
44 the commissioner, the director or such agent shall constitute a separate
45 offense.

46 Sec. 3. Section 31-290d of the general statutes is repealed and the
47 following is substituted in lieu thereof:

48 (a) There shall be a workers' compensation fraud unit within the
49 office of the Chief State's Attorney in the Division of Criminal Justice.
50 The unit, under the supervision of the Chief State's Attorney, may,
51 upon receipt of a complaint, at the request of the chairman of the
52 Workers' Compensation Commission or on its own initiative,
53 investigate cases of alleged fraud involving any claim for benefits, any
54 receipt or payment of benefits, or the insurance or self-insurance of
55 liability under sections 31-275 to 31-287, inclusive, subsections (a) to (f),
56 inclusive, of section 31-288 and sections 31-289 to 31-355a, inclusive.
57 Upon conclusion of the investigation, the Chief State's Attorney shall
58 take appropriate action to enforce the laws of this state.

59 (b) The workers' compensation fraud unit shall submit a quarterly
60 report detailing its activities to the chairman and the Advisory Board
61 of the Workers' Compensation Commission.

62 (c) The cost of the workers' compensation fraud unit shall be
63 appropriated by the General Assembly as an expense of the Workers'
64 Compensation Commission and shall be paid from the Workers'
65 Compensation Administration Fund established under section 31-344a.
66 The unit shall not engage in nor be assigned any duties or
67 responsibilities other than those authorized by or necessary to carry
68 out the provisions of this section.

69 Sec. 4. (NEW) The Labor Commissioner shall assign two
70 investigators within the Wage and Workplace Standards Division to
71 investigate potential violations of subsection (g) of section 31-288 of the
72 general statutes.

73 Sec. 5. (NEW) Not later than December 31, 2001, and annually
74 thereafter, the Labor Commissioner shall report to the joint standing
75 committee of the General Assembly having cognizance of matters

76 relating to workers' compensation concerning actions taken by the
77 Labor Commissioner to enforce the provisions of subsection (g) of
78 section 31-288 of the general statutes. The report shall address
79 enforcement actions taken during the calendar year in which the report
80 is submitted and shall include, but not be limited to: (1) The number of
81 cases investigated, (2) the number of such cases referred for
82 prosecution or administrative hearings, (3) the amount of funds
83 recovered, (4) the penalties imposed on individuals found to have
84 violated the provisions of subsection (g) of said section 31-288, (5) a
85 description of any training provided to investigators assigned to
86 investigate potential violations of subsection (g) of said section 31-288,
87 and (6) any other information requested by the committee.

LAB Committee Vote: Yea 10 Nay 1 JF C/R JUD

JUD Committee Vote: Yea 36 Nay 0 JF

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: Minimal Savings

Affected Agencies: Department of Labor, Division of Criminal Justice

Municipal Impact: None

Explanation**State Impact:**

The Department of Labor will experience a workload increase as a result of the passage of this bill. The Labor Commissioner is required to assign two Wage Investigators to examine potential violations of subsection (g) of section 31-288 which is now enforced by the Chief State's Attorney's Office. The Department of Labor will also be required to give an annual report concerning these enforcement efforts. The department presently has 14 Wage and Hour Investigators. Their work could be affected by this assignment. Wage investigation would be delayed with the addition of the responsibility of investigation under subsection (g) of section 31-288.

The bill would result in minimal savings to the Division of Criminal Justice (DCJ) by transferring the investigation of employee misrepresentation fraud [CGS Sec. 31-288(g)] from the DCJ to the Department of Labor. The number of these cases currently handled by the DCJ's Workers' Compensation Fraud unit is not available at this

time but is estimated to be minimal. Any savings in workload would be redistributed to other cases.

OLR Bill Analysis

HB 5536

AN ACT CONCERNING ILLEGAL SUBCONTRACTING.**SUMMARY:**

This bill extends an existing \$300-per-violation civil penalty for violating certain wage laws to employers or their agents who attempt to defraud an insurance company that provides them with workers' compensation coverage. They are subject to the penalty if they misclassify employees as independent subcontractors or misrepresent the number of their employees in order to receive lower premiums.

The bill also transfers the authority to investigate employee misrepresentation fraud from the workers' compensation fraud unit in the Chief State's Attorney's Office to the Labor Department (DOL). DOL must assign two of its investigators to conduct investigations. It must report on its investigation activity annually by December 31, beginning in 2001 to the Labor and Public Employees Committee.

EFFECTIVE DATE: October 1, 2000

REPORT CONTENTS

DOL's annual report must include:

1. the number of cases investigated and the number referred for prosecution or administrative hearings,
2. the amount of funds recovered,
3. the penalties imposed,
4. a description of any training given to investigators, and
5. any other information the Labor and Public Employees Committee requests.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Change of Reference

Yea 10 Nay 1

Judiciary Committee

Joint Favorable Report

Yea 36 Nay 0